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10/820,371	04/08/2004	Thomas V. Wilder	DAREDEV.63DV1C1	7630

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KNOBBE MARTENS OLSON & BEAR LLP  
2040 MAIN STREET  
FOURTEENTH FLOOR  
IRVINE, CA 92614

EXAMINER

MORAN, KATHERINE M

ART UNIT PAPER NUMBER

3765

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

## Office Action Summary

Application No.

10/820,371

Applicant(s)

WILDER ET AL.

Examiner

Katherine M. Moran

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

### Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

### Status

- 1) ☒ Responsive to communication(s) filed on 21 December 2004.
- 2a) ☐ This action is **FINAL**. 2b) ☒ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

### Disposition of Claims

- 4) ☒ Claim(s) 1-5, 8-13 and 16 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☒ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-5, 8-13 and 16 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

### Application Papers

- 9) ☒ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 08 April 2004 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.
- Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).
- 11) ☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

### Priority under 35 U.S.C. § 119

- 12) ☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).
- a) ☐ All b) ☐ Some \* c) ☐ None of:
- ☐ Certified copies of the priority documents have been received.
  - ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.
  - ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

\* See the attached detailed Office action for a list of the certified copies not received.

### Attachment(s)

- ☒ Notice of References Cited (PTO-892)
- ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
- ☒ Information Disclosure Statement(s) (PTO-1449 or PTO/SB/08)  
Paper No(s)/Mail Date 5/17/04.
- ☐ Interview Summary (PTO-413)  
Paper No(s)/Mail Date. \_\_\_\_\_.
- ☐ Notice of Informal Patent Application (PTO-152)
- ☐ Other: \_\_\_\_\_.

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## **DETAILED ACTION**

### ***Response to Amendment***

Applicant's response of 12/21/04 has been received and reviewed. Applicant cancelled claims 6, 7, 14, and 15. Claims 1-5, 8-13, and 16 are pending.

### ***Claim Objections***

1. Claim 1 is objected to because of the following informalities: line 10: delete "shall" and insert --shell--. Appropriate correction is required.

### ***Specification***

2. The specification is objected to as failing to provide proper antecedent basis for the claimed subject matter. See 37 CFR 1.75(d)(1) and MPEP § 608.01(o). Correction of the following is required:

Claim 1: middle phalanx, distal phalanx, first shell portion, second shell portion

Claims 2 and 10: first and second shell portions are hinged together near the articulation between the middle and distal phalanxes

Claims 3 and 11: first and second shell portions comprise stopping means for preventing movement...

Claims 4 and 12: degree of overlap between first and second shell portions varies when one of first and second shell portions is hingedly moved relative to the other of first and second shell portions

Claims 8 and 16: cuff portion having a plurality of padded elements positioned around at least a portion of the circumference of the cuff portion and defining a

peripheral forearm protector, each said padded element partially overlapping an adjacent padded element

Claim 9: first movable joint between cuff portion and first shell portion, second movable joint between first and second shell portions

The disclosure is objected to because of the following informalities: pg.1, line 5: insert --now U.S. Patent No. 6,813,781, -- after "2003".

Appropriate correction is required.

### ***Claim Rejections - 35 USC § 112***

3. The following is a quotation of the first paragraph of 35 U.S.C. 112:

The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

4. Claims 8-13 and 16 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Claims 8 and 16 recite in part "a cuff portion having a plurality of padded elements positioned around at least a portion of the circumference of the cuff portion and defining a peripheral forearm protector, each said padded element partially overlapping an adjacent padded element. Applicant has pointed out that these claim elements are present in Figures 1-4 and paragraphs 44,45,

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and 51. The drawings do not show each padded element of the cuff portion partially overlapping an adjacent padded element. Accordingly, Applicant's specification was looked to for this teaching. However, the specification merely states in paragraphs 44, 45, and 51 that the glove has a padded cuff 14 with portions 14a-14c, and a padded cuff roll 15 or 151, with no mention made of an overlapping relationship between each of the padded elements.

With regard to claim 9, the claim recites in part a first movable joint between the cuff portion and the first shell portion. This teaching is not present in the specification and is not illustrated in the drawings.

### ***Claim Rejections - 35 USC § 102***

5. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.

6. Claims 9-13 are rejected under 35 U.S.C. 102(b) as being anticipated by Gambee (U.S.1,951,190). Gambee discloses the invention as claimed. Gambee teaches a glove, which could be worn while playing hockey, for enclosing a human wrist and hand, the hand including a dorsal side, a palm side, four fingers and one thumb having a dorsal side, an inner side, middle phalanx, a distal phalanx, and an articulation between the middle and distal phalanxes, the glove comprising a cuff portion 26 surrounding the wrist, a hand-receiving portion having a thumb-receiving portion 11

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receiving the thumb of the hand, the thumb-receiving portion having a rigid thumb shell covering at least in part the dorsal side of the thumb, the rigid thumb shell having first and second shell portions 28,29 that partially overlap one another at 28a,29a, a first movable joint at 25 or at the opposing end of portion 23a at the distal end of portion 29, between the cuff portion and first shell portion, and a second movable joint 30 between the first and second shell sections. The first and second shell portions 28,29 are hinged together at 30 near the articulation between middle and distal phalanxes. The stopping means is defined by the overlapping portions 28a,29a in that the underlying portion 29a prevents further rotation by portion 28a. A degree of overlap between the first and second shell portions inherently varies when one of the first and second shell portions is hingedly moved relative to the other of the first and second shell portions in that depending upon the angle of rotation, a greater surface area of the shell portion is covered or overlapped by portion 28a.

***Claim Rejections - 35 USC § 103***

7. The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negated by the manner in which the invention was made.

8. Claims 1-5, 8-13, and 16 are rejected under 35 U.S.C. 103(a) as being unpatentable over Thurston et al. (Thurston, U.S. 4,272,849) in view of Sauriol (U.S. 5,946,720). Thurston discloses the invention substantially as claimed. Thurston

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teaches a protective glove 10, which could be worn while playing hockey, for enclosing a human wrist and hand, the glove including a hand-receiving portion 11 comprising a palm side 15 facing the palm side of a hand, a dorsal side 14 facing the dorsal side of the hand, finger sheaths receiving the four fingers of the hand, and a thumb-receiving portion receiving the thumb of the hand, the thumb-receiving portion having a rigid thumb shell covering at least in part the dorsal side of the thumb, with one embodiment describing the thumb shell as having first and second shell portions 31,33 that partially overlap one another (Figures 6 and 7). The glove also includes a cuff portions surrounding the wrist. The first shell portion covering at least partially the middle phalanx of the thumb and the second shell portion covering at least partially the distal phalanx of the thumb, the first shell portion being hinged to the second shell portion by hinge 32. The glove further includes an inner liner 13 formed from cotton or soft wool. The drawings illustrate that the shell portions are hinged together near the articulation between the middle and distal phalanxes and comprise stopping means (in the form of tab 33) for preventing movement of the second shell portion beyond a predetermined point. A degree of overlap between the first and second shell portions inherently varies when one of the first and second shell portions is hingedly moved relative to the other, in that depending upon the angle of rotation, a greater surface area of the shell portion is covered or overlapped by portion 33. When the first and second shell portions are overlapped, the first shell portion extends underneath the second shell portion (Figure 6). With regard to claim 9, Thurston teaches a movable joint between the cuff portion and the first shell portion in that the thumb and cuff portions flex and move in relation to

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each other. However, Thurston doesn't teach a dorsal side of the hand-receiving portion having a padded surface, and a cuff portion having a plurality of padded elements positioned around at least a portion of the circumference of the cuff portion, with each padded element partially overlapping an adjacent padded element. Sauriol teaches a protective glove with a padded dorsal side 14 and a cuff portion 22 having a plurality of padded elements 36,40 in an overlapping relationship. The pads allow for maximum flexibility of the wrist while the padded portion provides additional protection to the vulnerable dorsal area. Therefore, it would have been obvious to one of ordinary skill in the art at the time of the invention to provide Thurston's glove with a padded back and cuff, as taught by Sauriol, in order to reinforce the glove's protective properties while preserving the glove's flexibility.

### ***Conclusion***

9. Any inquiry concerning this communication or earlier communications should be directed to Primary Examiner Katherine Moran at (571) 272-4990. The examiner can be reached on Monday-Thursday from 9:00 am to 6:30 pm, and alternating Fridays.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, John Calvert, may be reached at (571) 272-4983. The official and after final fax number for the organization where this application is assigned is (703) 872-9306.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR.



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Status information for unpublished applications is available through Private PAIR only.

For more information about the PAIR system, see <http://pair-direct.uspto.gov>. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free).

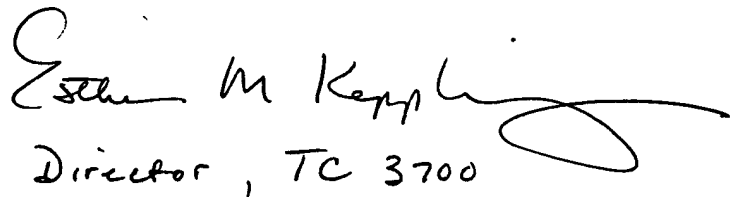
Kmm

March 31, 2005



Katherine Moran

Primary Examiner, AU 3765



Director, TC 3700